IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 14TH AUGUST 2007 / 23RD SRAVANA 1929

WP(C).No. 18014 of 2005(T)

AGAINST THE ORDER DATED 17/02/05 EP.28/04 IN OS. NO.907/02 OF I ADDL.MUNSIFF'S COURT, NEYYATTINKARA. (I.A.1430/03 IN AS.306/03 OF SUB COURT, NEYYATTINKARA)

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PETITIONER:

RAJAN,
RESIDING AT C.R. BHAVAN, NARUVAMOODU P.O.,
PALLICHAL DESOM, PALLICHAL VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.L.MOHANAN

RESPONDENT:

BABU,
RESIDING AT KRIPA NIVAS, MUKKOMPALAMOODU,
NARUVAMOODU P.O.,PALLICHAL DESOM,PALLICHAL VILLAGE
THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.18014/05

APPENDIX

PETITIONER'S EXTS:

EXT.P1 – COPY OF THE ORDER IN I.A.1430/03 DT.19.6.04.

EXT.P2 - COPY OF ORDER IN EP.28/04 IN O.S.907/02 DT.17.2.05.

/TRUE COPY/

PIUS C. KURIAKOSE, J.

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W.P.(C)No.18014 OF 2005

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DATED THIS THE 14th AUGUST, 2007

J U D G M E N T

The defendant against whom a money decree was passed preferred appeal and applied for stay. Stay was granted under Ext.P1 subject to the condition that the appellant-petitioner shall furnish security for Rs.65,000/-. The security furnished was found not satisfactory by the court below. Rejecting the security, the court below passed Ext.P2 order directing the petitioner to produce Fixed Deposit receipts for the appeal claim. It is Ext.P2 which is under challenge in this Writ Petition.

2. Noticing some merit in the grounds raised, this Court admitted the Writ Petition and granted stay of execution proceedings for one month. The above order of stay is being continued till date. I also feel that the learned Munsiff was not justified in insisting that Fixed Deposit receipts should be produced by way of security. The learned Munsiff could have directed production of other valuable security in the form of unencumbered immovable property. At the same time, at this distance of time I do not propose to set aside the impugned order. I am told that the appeal is even now pending.

I dispose of the Writ Petition directing the Subordinate Judge,

Neyyattinkara to give top priority to A.S.No.306 of 2003, hear both sides on that appeal and dispose of the appeal in accordance with law at the earliest and at any rate within three months of receiving copy of this judgment. Considering the above direction, it is further ordered that the order of stay presently passed in this case will continue for a period of four months from today.

(PIUS C.KURIAKOSE, JUDGE)

tgl